

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

NOTICE OF ADOPTION OF PROPOSED NEW LOCAL RULE 10(d)

PLEASE TAKE NOTICE that the Court has adopted proposed new Local Rule 10(d) to supersede existing Local Rule 10(d). A copy of the proposed new rule is attached.

Proposed new Local Rule 10(d) requires partial redaction of certain personal data from documents filed with the Court. In compliance with the United States Judicial Conference Policy on Privacy and Public Access to Electronic Case Files, parties must partially redact social security numbers, dates of birth, financial account numbers, names of minor children, and (for criminal cases) home addresses from documents filed with the Court. Parties will be permitted to file documents containing unredacted information under seal if they also file a redacted copy for the public file. The proposed new local rule also provides detailed information on the Court's sealing procedures.

The proposed new local rule will take effect on March 29, 2004, subject to revision in light of any comments received. Interested parties may submit comments on or before March 26, 2004, to:

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

January 28, 2004

Date

/s/ Patricia S. Connor

Clerk

Local Rule 10(d). Confidential Materials.

(1) Personal or Sensitive Data. In compliance with the United States Judicial Conference Policy on Privacy and Public Access to Electronic Case Files and in order to promote electronic access to case files while protecting personal privacy and other legitimate interests, parties should not include personal or sensitive data in documents filed with the Court unless necessary and relevant to the case and filed in accordance with the provisions of this rule.

(A) Exclusion or Partial Redaction Required: Parties shall not include, or shall partially redact where inclusion is necessary, the following personal data identifiers in any motion, brief, appendix, or other document filed with the Court, including exhibits thereto, whether filed electronically or in paper form, unless otherwise ordered by the Court.

(i) Social Security Numbers. If an individual's social security number must be included, only the last four digits of that number should be used.

(ii) Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.

(iii) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(iv) Dates of Birth. If an individual's date of birth must be included, only the year should be used.

(v) Home Addresses in Criminal Cases. If, in a criminal case, an individual's home address must be included, only the city and state should be used.

(B) Other Personal or Sensitive Data. Although not specifically covered by this rule, caution should be used when filing documents containing information such as a driver's license number, medical records (including treatment and diagnosis), employment history, and proprietary or trade secret information.

(C) Amendment of Caption. If protection of a party's name is sought for any reason in a case that did not proceed by way of pseudonym or initials before the district court or agency, a motion to amend caption must accompany the notice of appeal or petition for review.

(D) Redaction of Copies of Documents Filed before the District Court or Agency. If any of the personal data identifiers listed in (A) above were included in documents filed before the district court or agency, the parties shall partially redact these identifiers from all copies of such documents filed with this Court and provide notice of such redaction to this Court, the district court, and the other parties.

(E) Filing of Unredacted Documents under Seal. In accordance with the E-Government Act of 2002, a party wishing to file a motion, brief, appendix, or other document containing any of the unredacted personal data identifiers listed in (A) above may do so by filing:

- (i) a notice that both redacted and unredacted copies of the document are being filed;*
- (ii) four unredacted copies of the document in an envelope marked SEALED, with the first page of each copy conspicuously marked SEALED; and*
- (iii) one redacted copy for the public file.*

(2) *Certificates of Confidentiality.* *At the time of filing any motion, brief, appendix or other document containing or otherwise disclosing materials held under seal by another court or agency, counsel shall file a certificate of confidentiality.*

(A) Record material held under seal by another court or agency remains subject to that seal on appeal unless modified or amended by the Court of Appeals.

(B) A certificate of confidentiality must accompany any filing which contains or would otherwise disclose sealed materials. The certificate of confidentiality shall:

- (i) identify the sealed material;*
- (ii) list the dates of the orders sealing the material or, if there is no order, the lower court or agency's general authority to treat the material as sealed;*
- (iii) specify the terms of the protective order governing the information; and*
- (iv) identify the appellate document that contains the sealed information.*

(3) *Motions to Seal.* *Motions to seal all or any part of the record are presented to and resolved by the lower court or agency in accordance with applicable law during the course of trial, hearing, or other proceedings below.*

(A) A motion to seal may be filed with the Court of Appeals when:

- (i) a change in circumstances occurs during the pendency of an appeal that warrants reconsideration of a sealing issue decided below;*
- (ii) the need to seal all or part of the record on appeal arises in the first instance during the pendency of an appeal; or*
- (iii) additional material filed for the first time on appeal warrants sealing.*

(B) Any motion to seal filed with the Court of Appeals shall:

- (i) identify with specificity the documents or portions thereof for which sealing is requested;*
- (ii) state the reasons why sealing is necessary;*
- (iii) explain why a less drastic alternative to sealing will not afford adequate protection; and*
- (iv) state the period of time the party seeks to have the material maintained under seal and how the material is to be handled upon unsealing.*

(C) A motion to seal filed with the Court of Appeals will be placed on the public docket for at least 5 calendar days before the Court rules on the motion, but the materials subject to a motion to seal will be held under seal pending the Court's disposition of the motion.

(4) Filing of Confidential Material. *Counsel should place sealed material in a separate, sealed supplement to a brief, appendix, or other document, thereby avoiding the need to seal the entire item.*

(A) The first page of any document tendered or filed under seal pursuant to this rule shall be conspicuously marked SEALED, and all copies shall be placed in an envelope marked SEALED. If the material was sealed by another court or agency, the envelope will be accompanied by a certificate of confidentiality.

(B) If the confidential material is filed ex parte, the material and envelope will be marked EX PARTE in addition to SEALED. Absent such an EX PARTE notation, the material will be available to counsel of record in the case. A motion is required for release of sealed materials to anyone other than counsel of record.

(C) Only 4 copies of sealed portions of briefs, appendices or other documents shall be filed.

(D) The responsibility for following the required procedures in filing confidential materials and personal information rests solely with counsel and the parties. The clerk will not review each filing for compliance with this rule.